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12 UNITED STATES MAGISTRATE COURT

13 NORTHERN DISTRICT OF CALIFORNIA

14 SAN FRANCISCO DIVISION

15 UNITED STATES OF AMERICA, } No. 3 05 70678 (BZ)  
16 Plaintiff, }  
17 v. }  
18 ROSALYN TILLERY, }  
19 Defendant. }  
20 \_\_\_\_\_ }  
21 ~~PROPOSED~~ ORDER AND  
22 STIPULATION FOR CONTINUANCE  
23 FROM NOVEMBER 3, 2005 UNTIL  
24 DECEMBER 1, 2005 AND EXCLUDING  
25 TIME FROM THE SPEEDY TRIAL ACT  
26 CALCULATION (18 U.S.C. §  
27 3161(h)(8)(A)) AND WAIVING TIME  
28 LIMITS UNDER RULE 5.1

29 With the agreement of the parties, and with the consent of the defendant, the Court enters  
30 this order continuing this matter and scheduling an arraignment or preliminary hearing date of  
31 December 1, 2005 at 9:30A.M. before the duty magistrate judge, and documenting the  
32 defendant's waiver of the preliminary hearing date under Federal Rule of Criminal Procedure 5.1  
33 and the exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161(b), from November 3,  
34 2005 until December 1, 2005. The parties agree, and the Court finds and holds, as follows:

35 1. The defendant has been released on a bond.  
36 2. The Government has provided defense counsel with over 600 pages of discovery, and  
37 defense counsel requires additional time to review this material, discuss it with his client, and  
38 evaluate the possibility of a prompt resolution of this matter. Defense counsel also may  
39 independently seek additional discovery. Accordingly, the parties seek a continuance of

1 approximately one month until December 1, 2005.

2       3. Defendant agrees to an exclusion of time under the Speedy Trial Act, 18 U.S.C. §  
3 3161(h)(8)(B)(iv) and to waiving the time limits of Federal Rule of Criminal Procedure 5.1 for  
4 preliminary hearing.

5       4. The Court finds that, taking into the account the public interest in the prompt  
6 disposition of criminal cases, these grounds are good cause for extending the time limits for a  
7 preliminary hearing under Federal Rule of Criminal Procedure 5.1. In addition, given these  
8 circumstances, the Court finds that the ends of justice served by excluding the period from  
9 November 3, 2005 until December 1, 2005 outweigh the best interest of the public and the  
10 defendant in a speedy trial. 18 U.S.C. § 3161(h)(8)(A).

11       5. Accordingly, and with the consent of the defendant, the Court (1) continues the  
12 preliminary hearing date until December 1, 2005, at 9:30A.M. before the duty magistrate judge,  
13 and (2) orders that the period from November 3, 2005 to December 1, 2005 be excluded from the  
14 time period for preliminary hearings under Federal Rule of Criminal Procedure 5.1 and from  
15 Speedy Trial Act calculations under 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

16 IT IS SO STIPULATED:

18 DATED: 10/28/05

/s/

19 DAVID COHEN  
Attorney for Defendant

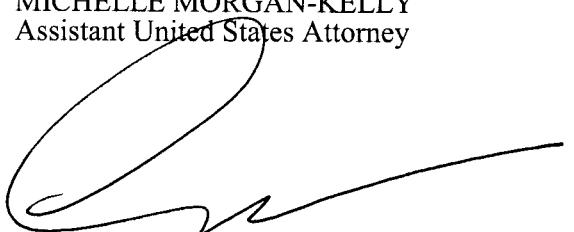
21 DATED: 10/28/05

/s/

22 MICHELLE MORGAN-KELLY  
Assistant United States Attorney

23 IT IS SO ORDERED.

25 DATED: 11/1/05

26   
HON. JAMES LARSON      EDWARD M. CHEN  
United States Magistrate Judge

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee of the office of the United States Attorney, Northern District of California and is a person of such age and discretion to be competent to serve papers. The undersigned certifies that she caused copies of

**[PROPOSED] ORDER AND STIPULATION FOR CONTINUANCE FROM  
NOVEMBER 3, 2005 UNTIL DECEMBER 1, 2005 AND EXCLUDING TIME FROM  
THE SPEEDY TRIAL ACT CALCULATION (18 U.S.C. SECTION 3161(h)(8)(A)) AND  
WAIVING TIME LIMITS UNDER RULE 5.1**

in the case of **UNITED STATES V. ROSALYN TILLERY, CR 05-70678 BZ** to be served on the parties in this action, by placing a true copy thereof in a sealed envelope, addressed as follows which is the last known address:

**David Cohen, Esq.  
Cohen & Paik  
177 Post Street, suite 600  
San Francisco, CA 94108  
Fax No: 415-398-7500**

(By Personal Service), I caused such envelope to be delivered by hand to the person or offices of each addressee(s) above.

(By Facsimile), I caused each such document to be sent by Facsimile to the person or offices of each addressee(s) above.

(By Mail), I caused each such envelope, with postage thereon fully prepaid, to be placed in the United States mail at San Francisco, California.

-(By Fed Ex), I caused each such envelope to be delivered by FED EX to the address listed above.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: October 28, 2005